

PATENT
Attorney Docket No. 3319.3A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James W. Overbeck

Examiner: T. Q. Nguyen

Serial No: 10/034,620

Group Art Unit: 2872

Filing Date: December 27, 2001

Title: **Wide Field of View and High
Speed Scanning Microscopy**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ADVISORY ACTION

Examiner Nguyen:

In reply to the Advisory Action mailed July 13, 2007, Applicants respectfully request reconsideration of the pending rejections and reexamination of the present application in view of the following remarks.

The Examiner has rejected claims 62-71 and 91-97 under the judicially created doctrine of obviousness type double patenting over Overbeck U.S. Patent No. 6,201,639 in view of Alexay. Applicant previously submitted a Terminal Disclaimer, however, it was rejected for two reasons: that the assignee of record was different than the assignee on the terminal disclaimer and because the attorney who signed the papers was not attorney of record. Applicant respectfully requests that the Examiner reconsider and withdraw the rejection in light of the following remarks.

Applicant's representative called the Examiner who then suggested that he call Ms. Nova Chapman, paralegal. Ms. Chapman checked PAIR and confirmed that the

representative who signed the terminal disclaimer did have power of attorney. This fact is in accord with Applicant's records which shows that a supplemental declaration was filed in May of 2003 naming Mr. McGarrigle on the power of attorney (copy attached). Therefore, Mr. McGarrigle is permitted to file the Terminal Disclaimer.

Applicant's representative discussed with Ms. Chapman the issue of different assignees and she referred Mr. McGarrigle to Mr. Clayton Laballe who suggested one way to resubmit the papers. Based in part on Ms. Chapman's and Mr. Laballe's advice Applicants are submitting a new Terminal Disclaimer signed on behalf of Genetic Microsystems along with two forms filed under 37 CFR §3.73 (b). Applicant asserts that the new documents complete the outstanding issues raised in the Office Action and request reconsideration and allowance.

CONCLUSION

For these reasons, Applicants believe all pending claims are now in condition for allowance. If the Examiner has any questions pertaining to this application or feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at 408 731 5021.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 01-0431.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By /Philip L. McGarrigle/

Philip L. McGarrigle – Reg. 31,395

Date: July 31, 2007

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